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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DYROL HARDING and AYANNA PARKER
HARDING,

Docket No.: 17-cv-4622

Plaintiffs,

-against-

STATE FARM FIRE AND CASUALTY COMPANY,

Defendant.

-----X

NOTICE OF REMOVAL

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK**

Pursuant to 28 U.S.C. §§ 1441 and 1446(a), Defendant State Farm Fire and Casualty Company (“State Farm”), by and through its undersigned counsel, Rivkin Radler LLP, hereby gives notice of the removal of the above-captioned matter from the Supreme Court of the State of New York, County of Kings, where the action is now pending, to the United States District Court for the Eastern District of New York, and respectfully states as follows:

1. This action (“Action”) was commenced against State Farm on or about July 10, 2017, by Plaintiffs Dyrol Harding and Ayanna Parker Harding (“Plaintiffs”) in the Supreme Court of the State of New York, County of Kings, under Index No. 513311/2017, with the filing of a Summons and Complaint (“Complaint”). Annexed hereto as Exhibit “A” is a copy of the Summons and Complaint.

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3. Exhibit “A” constitutes all of the process, pleadings, and/or orders that have been filed in the Action to date.

4. This Notice of Removal is being filed within thirty (30) days of service of the Summons and Complaint upon State Farm and, therefore, is timely filed pursuant to 28 U.S.C. §§ 1441, 1446(b).

5. Removal of this action is proper because this is a civil action in which Plaintiffs seek monetary relief in excess of \$75,000.00 against State Farm and there is complete diversity within the meaning of 28 U.S.C. § 1332 between Plaintiffs and Defendant.

6. Venue is proper in this United States District Court pursuant to 28 U.S.C. § 1446(a) because this Action is pending in Kings County, which is within the Eastern District of New York.

I. **Nature of the Case**

7. This Action is of a civil nature in which Plaintiffs seek monetary relief against State Farm in connection with State Farm’s denial of their claim submitted under a homeowner’s insurance policy.

8. Plaintiffs allege that on or about September 3, 2016, they suffered a loss to the property due to a covered peril. See Compl. at ¶ 5. Additionally, Plaintiffs allege that they submitted a claim and satisfied all the conditions under the policy. Id. at ¶ 8. Plaintiffs also allege that State Farm declined to indemnify them for the full extent of their losses and, therefore, State Farm is in breach of its contract of insurance. Id. at ¶¶ 8-9.

9. In connection with the foregoing allegations, among others, Plaintiffs allege one cause of action for breach of contract. Plaintiffs seek to recover damages in excess of \$585,583.82. Id. at ¶ 9.

II. **The Requirements for Removal Are Satisfied**

10. The requirements for diversity jurisdiction under 28 U.S.C. § 1332(a)(1) are satisfied.

A. Diversity of Citizenship

11. At the time this lawsuit was filed and as of the date of this notice, Plaintiffs were and are citizens of the State of New York. See 28 U.S.C. § 1332(c)(1); see also Compl. at ¶ 1.

12. At the time this lawsuit was filed and as of the date of this notice, State Farm was and is a citizen of the State of Illinois, because it is an Illinois corporation, with its principal place of business in Illinois. See 28 U.S.C. § 1332(c)(1).

13. Accordingly, there is complete diversity between the parties. See 28 U.S.C. § 1332(a)(1).

B. Amount in Controversy

14. Plaintiffs' Complaint seeks damages in excess of \$585,583.82. See Compl. at ¶ 9. Accordingly, Plaintiffs' Complaint satisfies the amount in controversy requirement of 28 U.S.C. § 1332(a)(1) and, thus, removal of this Action is proper.

III.

The Other Procedural Requisites for Removal are Satisfied

15. Removal is timely under 28 U.S.C. §§ 1446(b) and 1453 because the Complaint is the first pleading, motion, order, or other paper from which it could first be ascertained that this action is one which is or has become removable. This Notice of Removal is filed within thirty (30) days of receipt of a copy of the Complaint, which was filed on July 10, 2017, and served on State Farm on July 13, 2017. Pursuant to 28 U.S.C. § 1446(a) and Local Civil Rule 81.1, the Complaint is annexed hereto as Exhibit "A".

16. State Farm will give written notice to Plaintiffs (through their counsel) of the filing of this Notice of Removal, as required by 28 U.S.C. § 1446(d).

17. A copy of this Notice of Removal and a Notice of Filing the Notice of Removal will be filed by State Farm with the Clerk of the Supreme Court of the State of New York, County of Kings, as

required by 28 U.S.C. § 1446(d). State Farm has thus satisfied the requirements for removal under 28 U.S.C. § 1446 and all applicable rules.

IV.
Conclusion

17. For all the foregoing reasons, State Farm respectfully requests that this Court assume full jurisdiction over this Action as provided by law. State Farm intends no admission of liability by this Notice and expressly reserves all defenses, motions, and pleas, including, without limitation, objections to the sufficiency of Plaintiffs' pleadings.

Dated: Uniondale, New York
August 7, 2017

Respectfully submitted,
RIVKIN RADLER LLP

By: /s/ Michael P. Welch
Michael P. Welch (MW 7559)
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